

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

MOUNTAIN VALLEY PIPELINE, LLC,

Plaintiff,  
v.  
CIVIL ACTION NO 5:23-CV-00625

MELINDA ANN TUHUS, and  
ROSE ZHENG ABRAMOFF

Defendants.

**UNOPPOSED MOTION TO AMEND MOTION TO DISMISS  
TO INCLUDE SUPPLEMENTAL GROUNDS  
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

With the consent of Plaintiff Mountain Valley Pipeline, LLC (“MVP”), Defendants Melinda Ann Tuhus (“Tuhus”) and Rose Zheng Abramoff (“Abramoff”) hereby move for leave to amend their previously-filed Motion to Dismiss (ECF Doc. 14)<sup>1</sup> and supporting Memorandum (ECF Doc. 15) to include the additional grounds, to be incorporated by reference into said Motion and Memorandum, set forth in the attached, conditionally-filed Supplemental Memorandum of Law in Support of Motion to Dismiss. In support of their Motion to Amend, Defendants state the following.

1. On October 2, 2023, Defendants filed the above-referenced Motion to Dismiss/Motion to Abstain and supporting Memorandum. The Motion

---

<sup>1</sup> As MVP has previously acknowledged, while styled as a “Motion for Abstention” this pleading is, in substance, a Motion to Dismiss. The previously-filed Motion to Dismiss/Motion for Abstention remains pending.

remains pending to date.

2. On July 19, 2024, the parties jointly moved to modify the Scheduling Order in this matter. The Court granted the parties' joint motion and issued a modified Scheduling Order on July 25, 2024.
3. Prior to the Defendants' stipulation to the joint Motion, the parties contemplated that they would jointly submit a proposed modified Scheduling Order accommodating requests from both MVP and Defendants. Defendants' primary request, explicitly understood as a condition of their agreement to the joint motion, was that MVP would agree to an order deeming an amendment to the above-referenced Motion to Dismiss, so as to add supplemental grounds pursuant to Fed. R. Civ. P. 12(b)(6), timely if filed by July 26, 2024.
4. The parties were in good-faith discussion regarding the details of their contemplated proposed modified Scheduling Order when the Court issued the modified Scheduling Order on July 25. Accordingly, the modified Scheduling Order does not include the above defense request that had been agreed upon by the parties.
5. Defendants have conferred with MVP subsequent to entry of the modified Scheduling Order, and MVP has confirmed that it remains unopposed to Defendants' Motion to Amend.
6. MVP has no objection to the form of amendment sought by the Defendants – i.e., the submission of a supplemental memorandum to be incorporated

by reference into their original Motion to Dismiss.

7. Granting the Motion to Amend is in the interest of both justice and judicial economy, as it would both honor the agreement between the parties that precipitated the modified Scheduling Order adopted by the Court, and facilitate efficient litigation of potentially case-dispositive and/or case-narrowing issues going forward, to the extent this Court does not dispose of the matter on the abstention grounds previously set forth.

WHEREFORE, for the foregoing reasons, Defendants respectfully move, without opposition, that the Court grant Defendants leave to amend their previously-filed Motion to Dismiss as set forth in the attached proposed Order.

Respectfully submitted,

**MELINDA ANN THUSUS  
ROSE ZHENG ABRAMOFF**

By Counsel

/s/ Jonathan Sidney

Jonathan Sidney  
*Pro Hac Vice*  
Colorado Bar No. 52463  
Ohio Bar No. 0100561  
Climate Defense Project  
P.O. Box 97  
Forest Hill, WV  
Email: jsidney@climatedefenseproject.org  
Telephone: (510) 318-1549

/s/ William V. DePaulo

William V. DePaulo, Esq. #995  
860 Court Street North  
Suite 300  
Lewisburg, WV 25901  
Phone: (304) 342-5588  
Fax: (866) 850-1501  
William.depaulo@gmail.com

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY**

MOUNTAIN VALLEY PIPELINE, LLC,  
Plaintiff,

v.

CIVIL ACTION NO 5:23-CV-00625

MELINDA ANN TUHUS, and  
ROSE ZHENG ABRAMOFF  
Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was filed electronically with the Clerk of the Court, this 26<sup>th</sup> day of July, 2024, and thereby served on Counsel for the Plaintiff as follows:

Timothy M. Miller (WVSB #2564)  
Matthew S. Casto (WVSB #8174)  
Robert M. Stonestreet (WVSB # 9370)  
Jennifer J. Hicks (WVSB # 11423)  
Austin D. Rogers (WVSB #13919)

**BABST CALLAND, P.C.**

300 Summers Street, Suite 1000  
Charleston, WV 25301  
Telephone: 681.205.8888  
Facsimile: 681.205.8814  
tmiller@babstcalland.com  
mcasto@babstcalland.com  
rstonestreet@babstcalland.com  
jhicks@babstcalland.com  
arogers@babstcalland.com

/s/William V. DePaulo  
William V. DePaulo